

Message Text

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COME-00 DODE-00 EB-03 EPA-01 INR-10 IO-03 L-02 NSF-01

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FM SECSTATE WASHDC

TO AMCONSUL HAMILTON

UNCLAS STATE 223715

E.O. 11652: N/A

TAGS: SENV, MARR, BD

SUBJECT: US-BERMUDIAN AGREEMENT RE OIL SPILLS

1. FOLLOWING IS THE DRAFT TEXT OF AN EXECUTIVE AGREEMENT BETWEEN THE US AND BERMUDA CONCERNING ASSISTANCE TO BE RENDERED ON A REIMBURSABLE BASIS BY THE COAST GUARD TO CONTAIN AND CLEAN UP OIL SPILLS. THE TEXT SHOULD BE PASSED TO THE BERMUDA AUTHORITIES FOR THEIR INFORMATION AND COMMENT, WITH A VIEW TO AN EARLY EXCHANGE OF NOTES TO CONCLUDE THE ARRANGEMENT.

2. "IN THE EVENT OF A MAJOR DISCHARGE OF OIL IN THE WATERS OF BERMUDA OR ON THE HIGH SEAS IN CIRCUMSTANCES WHICH COULD RESULT IN SIGNIFICANT POLLUTION DAMAGE TO THE WATERS AND COASTAL AREAS OF BERMUDA, THE GOVERNMENT OF BERMUDA MAY REQUEST THE ASSISTANCE OF THE GOVERNMENT OF THE UNITED STATES IN REMOVING SUCH OIL AND IN MINIMIZING AND

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MITIGATING RELATED DAMAGE. THE REQUEST MAY BE MADE BY

WRITTEN COMMUNICATION-OR THROUGH RAPID COMMUNICATION METHODS.- IF THE REQUEST IS MADE BY OTHER THAN WRITTEN COMMUNICATION, IT SHALL BE CONFIRMED BY WRITTEN COMMUNICATION DELIVERED TO THE GOVERNMENT OF THE UNITED STATES WITHIN 24 HOURS OF THE REQUEST. UPON RECEIPT OF SUCH A REQUEST THE GOVERNMENT OF THE UNITED STATES MAY MAKE AVAILABLE TO THE GOVERNMENT OF BERMUDA THE SERVICES,

INCLUDING PERSONNEL AND FACILITIES, OF AGENCIES OF THE GOVERNMENT OF THE UNITED STATES CAPABLE OF PROVIDING THE ASSISTANCE REQUESTED IN ACCORDANCE WITH THE PROVISIONS OF THIS AGREEMENT.

3. "THE GOVERNMENT OF THE UNITED STATES MAY PROVIDE ASSISTANCE TO THE GOVERNMENT OF BERMUDA PURSUANT TO THIS AGREEMENT ONLY TO THE EXTENT THAT THE PERSONNEL AND FACILITIES OF THE COMPETENT UNITED STATES AGENCIES ARE NOT OTHERWISE COMMITTED.

4. "THE PERSONNEL AND FACILITIES OF THE GOVERNMENT OF THE UNITED STATES MADE AVAILABLE TO THE GOVERNMENT OF BERMUDA PURSUANT TO THIS AGREEMENT SHALL AT ALL TIMES REMAIN UNDER THE CONTROL AND DIRECTION OF THE GOVERNMENT OF THE UNITED STATES. TO THE EXTENT PRACTICABLE THE ACTIVITIES OF THE PERSONNEL AND FACILITIES OF THE GOVERNMENT OF THE UNITED STATES SHALL BE COORDINATED WITH THE ACTIVITIES OF THE PERSONNEL AND FACILITIES OF BERMUDA IN ORDER TO ACHIEVE THE MAXIMUM POSSIBLE EFFECTIVENESS AND EFFICIENCY.

5. "THE GOVERNMENT OF BERMUDA SHALL REIMBURSE THE GOVERNMENT OF THE UNITED STATES FOR ALL COSTS INCURRED BY THE GOVERNMENT OF THE UNITED STATES RELATING TO THE USE OF PERSONNEL AND FACILITIES OF THE GOVERNMENT OF THE UNITED STATES PROVIDED PURSUANT TO THIS AGREEMENT. THIS REIMBURSEMENT SHALL BE MADE WITHIN ONE HUNDRED AND TWENTY DAYS AFTER RECEIPT BY THE GOVERNMENT OF BERMUDA OF AN ITEMIZED STATEMENT OF SUCH COSTS PROVIDED BY THE GOVERNMENT OF THE UNITED STATES.

6. "THE GOVERNMENT OF BERMUDA SHALL RELEASE AND FOREVER UNCLASSIFIED

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DISCHARGE THE GOVERNMENT OF THE UNITED STATES, ITS AGENCIES, OFFICERS AND EMPLOYEES FROM ANY AND ALL CLAIMS AND CAUSES OF ACTION ARISING OUT OF THE ACTIVITIES PROVIDED BY THE GOVERNMENT OF THE UNITED STATES PURSUANT TO THIS AGREEMENT. THE GOVERNMENT OF BERMUDA SHALL DEFEND, INDEMNIFY, AND HOLD FOREVER HARMLESS THE GOVERNMENT OF THE UNITED STATES, ITS AGENCIES, OFFICERS AND EMPLOYEES, AGAINST ANY AND ALL CLAIMS AND CAUSES OF ACTION WHICH HEREFTER AT ANY TIME

ARE MADE OR INSTITUTED FOR THE PURPOSE OF PURSUING OR ENFORCING A CLAIM FOR DAMAGES RESULTING FROM THE AFORESAID ACTIVITIES.

7. "THE GOVERNMENT OF BERMUDA SHALL FACILITATE THE LANDING AND ACTIVITIES OF ANY PERSONNEL AND FACILITIES OF THE GOVERNMENT OF THE UNITED STATES NECESSARY, IN THE OPINION OF THE GOVERNMENT OF THE UNITED STATES, TO PROVIDE ASSISTANCE IN RESPONSE TO A REQUEST MADE PURSUANT TO PARAGRAPH

1 OF THIS AGREEMENT.

8. "QUESTIONS OF JURISDICTION WITH RESPECT TO PERSONNEL OF THE UNITED STATES PROVIDED IN RESPONSE TO A REQUEST MADE PURSUANT TO PARAGRAPH 1 OF THIS AGREEMENT SHALL BE DETERMINED IN ACCORDANCE WITH THE PROVISIONS OF THE MARCH 27, 1941 AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND RESPECTING LEASED NAVAL AND AIR BASES, AS MODIFIED BY THE AGREEMENT OF AUGUST 1, 1950.

9. "THIS AGREEMENT SHALL ENTER INTO FORCE UPON SIGNATURE AND SHALL REMAIN IN FORCE UNTIL TERMINATED AS PROVIDED BELOW. THIS AGREEMENT MAY BE TERMINATED AT ANY TIME BY THE AGREEMENT OF THE GOVERNMENT OF BERMUDA AND THE GOVERNMENT OF THE UNITED STATES. ALTERNATIVELY, IT MAY BE TERMINATED, EXCEPT FOR PARAGRAPHS 4 AND 5 HEREOF, BY EITHER GOVERNMENT UPON NOTICE GIVEN 60 DAYS IN ADVANCE OF SUCH TERMINATION TO THE OTHER GOVERNMENT. IN THE LATTER CASE, UNLESS OTHERWISE AGREED, PARAGRAPHS 4 AND 5 OF THE AGREEMENT SHALL REMAIN IN FORCE UNTIL EXECUTED." INGERSOLL

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